IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO.1063 OF 2005

WITH

CIVIL APPLICATION NO.1312 OF 2005

The Pragati Mandal Consumer
Co-op. Society Ltd. ..Appellant.

Vs.

The State of Maharashtra & anr. ..Respondents.

....

Mr.P.R.Kadam for the Appellant.

Mr.V.B.Sakhare, AGP for the State.

....

CORAM : DR.D.Y.CHANDRACHUD, J.

29th November 2005.

P.C. :

Admit. By consent taken up for hearing and final disposal.

The Appellant is a society registered under the Co-operative Societies Act, 1925. The suit premises were allotted to the Appellant for running

a fair price shop initially in 1962. Leave and licence agreements have been renewed thereafter until 2001. The Appellant moved the City Civil Court upon a letter by the Senior Inspector of Police on 22nd September, 2005 calling upon the Appellant to vacate the premises within 15 days. It has been stated that the officers of the Respondents visited the premises on 22nd October, 2005 for seeking forcible eviction. The Learned Trial Judge was moved for ad interim relief which has been declined by the impugned order dated 17th November, 2005. The Appellant has been in settled possession for over 40 years. It is undoubtedly open to the Respondents to take recourse to the due process of law for securing vacant possession of the premises. In the circumstances, the order of the Learned Trial Judge declining ad interim relief will have to be set aside and there shall accordingly be a direction to the effect that the Respondents shall not disturb the possession of the Appellant without due process of law. The Appeal is allowed to the aforesaid extent. There shall be no order as to costs.

In view of the disposal of the Appeal from

Order, the Civil Application is rendered infructuous and is accordingly disposed of.